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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/966,751 | 10/01/2001 | Emmanuelle Belli | 13833.0008 | 3618 |

7590 01/28/2002

STEPTOE & JOHNSON LLP
1330 Connecticut Ave., N.W.
Washington, DC 20036

EXAMINER

BAHAR, MOJDEH

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 1617 | S |

DATE MAILED: 01/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|-------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 09/966,751 | BELLI, EMMANUELLE |
| Examiner | Art Unit | |
| Mojdeh Bahar | 1617 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 12-25 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 12-25 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

| | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>4</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 13 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. “Allyl methacrylate” does not further limit the fixing film-forming polymer of claim 12.

Claims 12 and 25 are objected to because of the following informalities: the use of parenthetical expression “(Meth)” is considered informal. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Independent claims 12 and 25 fail to clearly set forth the metes and bounds of the invention. The number and nature of monomers that constitute the claimed polymer are not particularly pointed out.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 12-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Midha et al. (USPN 5,986,015).

Midha et al. (USPN 5,986,015) teaches a cosmetic composition comprising polymers of monomers such as acrylic acid, methacrylic acid, acrilamide, see col. 6, line 63 to col. 7 line 47. Midha et al. (USPN 5,986,015) also teaches a hair styling gel comprising 2.5 weight percent of Graft copolymer 1.2 (which comprises methacrylic acid and tert-butyl acrylate), 0.5 weight percent Carbomar 940 (a thickening agent), see particularly col. 17 lines 23-26 and col. 19, example 17. Midha et al. (USPN 5,986,015) further teaches the addition of optional ingredients such as xanthan gum (a polymeric thickener) to its cosmetic hair composition, see col. 16, lines 14-26. Midha et al. (USPN 5,986,015) teaches that the concentration of optional ingredients will typically and collectively range from 0.05% to 30% by weight of the composition, see particularly col. 14, lines 36-46. Midha et al. (USPN 5,986,015) that the cosmetic composition is suitable for application to hair, see col. 11 line 59 in particular.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the claimed branched block copolymer and the thickeners claimed herein in a cosmetic hair gel composition.

One of ordinary skill in the art would have been motivated to employ the because claimed branched block copolymer and the thickeners claimed herein in a cosmetic hair gel composition because the polymer as well as the thickeners are taught by examiner's cited prior art to be used in cosmetic hair gel compositions.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mojdeh Bahar whose telephone number is (703) 305-1007. The examiner can normally be reached on (703) 305-1007 from Monday to Friday from 9:00 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Minna Moezie, J.D., can be reached on (703) 308-4612. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Mojdeh Bahar
Patent Examiner
January 24, 2002

Minna Moezie
MINNA MOEZIE, J.D.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600